

MINUTES

MONTANA SENATE 57th LEGISLATURE - REGULAR SESSION COMMITTEE ON EDUCATION AND CULTURAL RESOURCES

Call to Order: By **CHAIRMAN BILL GLASER**, on February 16, 2001 at 3:00 P.M., in Room 303 Capitol.

ROLL CALL

Members Present:

Sen. Bill Glaser, Chairman (R)
Sen. Jack Wells, Vice Chairman (R)
Sen. Dale Berry (R)
Sen. John C. Bohlinger (R)
Sen. Edward Butcher (R)
Sen. John Cobb (R)
Sen. Jon Ellingson (D)
Sen. Jim Elliott (D)
Sen. Alvin Ellis Jr. (R)
Sen. Sam Kitzenberg (R)
Sen. Don Ryan (D)
Sen. Debbie Shea (D)
Sen. Mike Sprague (R)

Members Excused: Sen. Mignon Waterman (D)

Members Absent: None.

Staff Present: Linda Ashworth, Committee Secretary
Eddy McClure, Legislative Branch

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: SB 99, 1/23/2001; SB 101,
1/23/2001; SB 444, 2/10/2001
Executive Action: SB 218; SB 391; SB 436; SB
457; SB 273; SB 117; SB 344;
SB 430

HEARING ON SB 99, SB 101

Sponsor: SEN. SAM KITZENBERG, SD 48, Glasgow

Proponents: **Eric Feaver, Montana Education Association/Montana Federation of Teachers**
 Lance Melton, Montana School Boards Association
 Randi Swoboda, Self, Helena
 Leonard Bates, Self, Great Falls
 SEN. DON RYAN, SD 22, Great Falls
 Gary Stein, Self, Missoula
 Sharon Morehouse, Self, Dillon
 Patti Keebler, AFL/CIO
 Steven Smith, Self, Outlook

Opponents: None

Opening Statement by Sponsor:

SEN. SAM KITZENBERG opened on SB 99 and SB 101. He articulated that SB 99 and SB 101 would establish a statewide salary schedule for public school teachers or specialists who are certified as Class 1, 2, 4, or 5. The bill would also affect those teachers or specialists who are identified by the Superintendent of Public Instruction as Class 6 or 7 certified. **SEN. KITZENBERG** submitted written testimony, **EXHIBIT(eds39a01)**.

{Tape : 1; Side : A; Approx. Time Counter : 0 - 8}

Proponents' Testimony:

Eric Feaver, Montana Education Association/Montana Federation of Teachers, rose in support of SB 99 and SB 101. Mr. Feaver punctuated his presentation with written testimony, **EXHIBIT(eds39a02)**.

Lance Melton, Montana School Boards Association, avowed support of SB 101 as amended by the sponsor. He stated his opposition to SB 99. **Mr. Melton** offered written testimony concerning budget trends of Montana school districts, **EXHIBIT(eds39a03)**.

Randi Swoboda, representing herself, echoed support for SB 101. **Ms. Swoboda** submitted written testimony, **EXHIBIT(eds39a04)**.

{Tape : 1; Side : A; Approx. Time Counter : 8 - 32}

{Tape : 1; Side : B; Approx. Time Counter : 0 - 1}

Leonard Bates, representing himself, stated briefly that he taught at the College of Great Falls as the Director of the Respiratory Therapist Program. **Mr. Bates** related a brief

anecdote which emphasized the need to pay public school teachers more money.

SEN. DON RYAN, SD 22, testified, as a parent from Great Falls when citing his support of SB 101. He avowed that every teacher hired in Montana should be of the highest quality available. He expressed his belief that teachers are community leaders, involved in all aspects of the community.

Gary Stein, representing himself, rose in support of SB 99. **Mr. Stein** did not support SB 101 arguing that the responsibility of leadership should not be passed to the voters. He also stated that school boards have shown poor track records when paying teachers in times when money was available.

Sharon Morehouse, representing herself, related personal family experiences in her support of SB 101 and SB 99.

Patti Keebler, AFL/CIO, offered support of SB 99 and SB 101 as originally introduced. **Ms. Keebler** contended **AFL/CIO** supports fair pay and respect for Montana's teachers.

Steven Smith, representing himself, gave an account of his personal teaching experiences when declaring support for SB 99 and SB 101.

{Tape : 1; Side : B; Approx. Time Counter : 1 - 15}

Opponents' Testimony: None

Informational Testimony: None

Questions from Committee Members and Responses:

SEN. JIM ELLIOT asked **Eric Feaver** to comment on the lack of funding for current education. **Mr. Feaver** related his belief that taxes had been cut, which resulted in a lack of money for school funding.

SEN. ED BUTCHER referred to the huge unfunded mandate regarding special education programs and wondered how the loss of revenue, that was promised at the 40% range, compared to current spending. **Mr. Feaver** clarified that he could not offer a concise figure. He contended Montana appropriates about 34 million dollars for special education and the federal government's contribution is between 12% and 20% of the total cost. He related that the federal government had never lived up to the 40% promise that was made thirty years ago.

SEN. DON RYAN called for **Lance Melton** to explain the federal, state and local portions of special education funding during the past ten years. **Mr. Melton** related that the federal government has been dismal in its funding support of special education. The state funding for special education has remained stagnant until the last session. Local school districts currently pick up 30 million dollars from general fund budgets to pay for unfunded special education costs.

SEN. ALVIN ELLIS asked for clarification regarding the special education costs that would be in the state's base funding schedule which would appear in the base budget. **Lance Melton** said that 140% of the unfunded special education costs are included in the formula at the base budget level.

SEN. ELLIS wondered how many millions of dollars the state was providing. **Mr. Melton** responded that the cost was about 33 million dollars.

SEN. ELLIS asked **Mr. Melton** to recount the total cost of the program. **Mr. Melton** stated that the unfunded costs were about 83 million dollars.

Referring to **Mr. Melton's** chart, **EXHIBIT (3)**, **SEN. JACK WELLS** rationalized that the administrative costs in education have continued to rise while teachers suffer. **Eric Feaver** surmised that if that statement were true, Montana would have the best paid administrators in North America. **Mr. Feaver** argued that the costs of special education, more than administrators salaries, has cut into educational funding. He further reiterated that he did not believe that Montana administrators were overpaid.

SEN. WELLS asked **Patti Keebler** to address the **AFL/CIO'S** stand regarding a sales tax. **Ms. Keebler** reminded the committee that the **AFL/CIO** represents laborers and lawyers, street workers and school teachers. She asserted that school teachers need fair and adequate pay. She cited that local **AFL/CIO** organizations were autonomous and different memberships would support or oppose different issues.

SEN. WELLS followed up by asking **Ms. Keebler** what the position of the **AFL/CIO** would be if SB 101 would come before the public with amendments. **Ms. Keebler** maintained that policy decisions were made and voted on by delegates to the **AFL/CIO** convention and the referendum would be a post-convention issue.

SEN. MIKE SPRAGUE asked **Eric Feaver** if he would support an amendment that would increase the sales tax bill to 4%. **Mr.**

Feaver purported that **MEA/MFT** would not support a sales tax that would eliminate property taxes or income taxes. He reasoned that a sales tax should be added to the current mix of taxes.

{Tape : 1; Side : B; Approx. Time Counter : 15 - 32}

SEN. DEBBIE SHEA asked **Mr. Feaver** if he felt the public would support a sales tax if it would not eliminate another tax. **Mr. Feaver** rationalized the voters would expect a trade-off with a 4% sales tax initiative.

{Tape : 2; Side : A; Approx. Time Counter : 0 - 2}

Closing by Sponsor:

SEN. KITZENBERG closed on SB 99 and SB 101. He introduced **Montana's Teacher of the Year, Robin Zeal**, as one of Montana's best and brightest. He asserted that in times of crisis all people need to pull together for a common goal.

{Tape : 2; Side : A; Approx. Time Counter : 2 - 4}

HEARING ON SB 444

Sponsor: **SEN. ED BUTCHER, SD 47, Winifred**

Proponents: None

Opponents: **Eric Feaver, Montana Education Association/Montana Federation of Teachers**
Lance Melton, Montana School Boards Association
Madalyn Quinlan, Office of Public Instruction

Opening Statement by Sponsor:

SEN. ED BUTCHER opened on SB 444. He contended that SB 444 would require a school district to provide a teacher with full credit for steps and lanes earned during the teacher's teaching experience, wherever the teacher is employed. He voiced his concern of teachers being locked into one location. The bill would allow school districts to compete for experienced teachers to fill positions. **SEN. BUTCHER** submitted written testimony, **EXHIBIT** (eds39a05).

{Tape : 2; Side : A; Approx. Time Counter : 4 - 15}

Proponents' Testimony: None

Opponents' Testimony:

Eric Feaver, Montana Education Association/Montana Federation of Teachers, avowed opposition to SB 444 reasoning that SB 101 would address the issue of salary portability in a more positive manner. **Mr. Feaver** felt the bill would raid the budget authority of school districts and ascribe that to teacher salaries. He argued that schools should be completely funded before bargaining should begin for portability funding.

Lance Melton, Montana School Boards Association, referred to his previous handout, **EXHIBIT (3)**, as he stated opposition to SB 444. He expressed appreciation to **SEN. BUTCHER** for discussing the issue but explained the unintended consequences. **Mr. Melton** maintained that the bill would be funded out of the existing system, which would leave schools without funds to fund the statutorily defined basic entitlement and the per ANB entitlement.

Informational Testimony:

Madalyn Quinlan, Office of Public Instruction, provided the committee with the fiscal note that was provided to the Governor's Budget Office. She pointed out that the fiscal note was based on the average beginning Montana teaching salary of \$19,000 and the average salary of \$30,000. **Ms. Quinlan** submitted written testimony, **EXHIBIT(eds39a06)**.

{Tape : 2; Side : A; Approx. Time Counter : 15 - 32}

{Tape : 2; Side : B; Approx. Time Counter : 0 - 2}

Questions from Committee Members and Responses: None

Closing by Sponsor:

SEN. BUTCHER closed on SB 444. As he outlined the program he clarified that SB 444 was not a salary bill, but a program to address the issue of teachers losing years of experience on the salary schedules as they move from district to district. He maintained that the bill would not interfere with formulas that were currently in place.

{Tape : 2; Side : B; Approx. Time Counter : 2 - 6}

CHAIRMAN BILL GLASER adjourned to room 405.

*{Tape : 2; Side : B; Approx. Time Counter : 6 - 7; Comments :
This is the end of Tape 2, Side B.}*

Meeting reconvened at 5:15 in Room 405. *{Tape : 3; Side : A;
Comments : New Tape}*

EXECUTIVE ACTION ON SB 218

Motion: SEN. ELLIS moved that SB 218 BE AMENDED (SB02101.aem),
EXHIBIT (eds39a07) .

Discussion:

SEN. RYAN asked if the amendments dealt with the vote of the people to move the money from the tuition fund to the district's miscellaneous fund. SEN. ELLIS explained the amendments.

SEN. RYAN stated his opposition to the amendments. He maintained that the bill would allow the local districts to move inactive tuition funds to another locally controlled fund rather than putting it into the base amount.

SEN. SPRAGUE asked SEN. ELLIS to explain his comments. SEN. ELLIS clarified that the tuition account is a permissive levy so the money should be transferred to another permissive levy account.

SEN. SPRAGUE wondered if a vote of the people would be needed to use a small amount of the account. SEN. ELLIS maintained the amendment would put it in the general fund account. If the funds were in the miscellaneous account, districts would have to receive voter permission to use it.

CHAIRMAN BILL GLASER clarified that if the money was moved into the general fund account then the districts could utilize it, but if it was in a miscellaneous account districts would have to vote it out of the tuition account. SEN. ELLIS agreed that they would have to vote it from the tuition account into the miscellaneous account.

SEN. SPRAGUE asked SEN. RYAN to clarify his concerns with the amendments. SEN. RYAN speculated that the amendments would complicate the bill.

SEN. JIM ELLIOT related his belief that if the sponsor opposed the amendment then he would oppose the amendment. CHAIRMAN GLASER reminded the committee that when a sponsor brings a bill

to the committee then the bill becomes the committee's bill.

SEN. ELLIOT reiterated that as a matter of professional courtesy to the sponsor he would oppose the amendments.

SEN. JOHN BOHLINGER inferred the amendment would complicate the issue without providing the flexibility that **SEN. RYAN** was seeking. He contended that the bill should be kept simple which would allow for a transfer of money without a vote.

SEN. DALE BERRY referred to the amount of money involved in the transfer of funds and wondered if \$1500 was the largest amount that would be transferred. **SEN. RYAN** indicated there was \$850,000, state wide, in inactive tuition accounts. Great Falls has over \$150,000 in that account.

SEN. SPRAGUE wondered if that money would be discretionary. **SEN. RYAN** reasoned that under current law if the money is moved then the district would lose state dollars in the Guaranteed Tax Base.

SEN. SPRAGUE entreated **SEN. ELLIS** to answer the same question. **SEN. ELLIS** justified the amendment by saying that if the money went into the over base the district wouldn't lose state dollars. It would lose local tax revenue if the district was capped out. Otherwise, the district could ask for the money and spend it.

SEN. BOHLINGER reminded the committee that the trustees of the district manage the funds. He argued that trustees would spend the money with a disciplined approach.

Vote: **SEN. ELLIS'** motion that **SB 218 BE AMENDED (SB021801.aem)** failed 6-8 with **Berry, Cobb, Ellis, Glaser, Waterman, and Wells** voting aye.

Motion/Vote: **SEN. RYAN** moved that **SB 218 DO PASS. Motion carried** unanimously.

EXECUTIVE ACTION ON SB 391

Motion: **SEN. GLASER** moved that **SB 391 BE AMENDED (SB039101.aem)** **EXHIBIT (eds39a08)** .

Discussion:

CHAIRMAN GLASER instructed that the amendment would authorize the Department of Commerce to contract for a travel research program.

He indicated that the sponsor would accept the amendment if it would mean passage of the bill.

SEN. ED BUTCHER argued that the system had been working well and suddenly one personality in the university system had created a political issue. He reasoned that the bill should die.

SEN. SPRAGUE asked for clarification on the amendment. **CHAIRMAN GLASER** explained that the amendment would isolate the money between the university system and the Tourist Bureau so that it would take care of the alleged constitutional problem.

Vote: **SEN. GLASER'S** motion that **SB 391 BE AMENDED (SB039101.aem)** passed 13-1 with **Waterman** voting no.

Motion: **SEN. COBB** moved that **SB 391 DO PASS AS AMENDED.**

Discussion:

SEN. JON ELLINGSON respectfully disagreed with **SEN. BUTCHER'S** perspective on SB 391. He reasoned that when an entity approaches the university and asks for research, that entity does not have the right to edit the results of the research before publication. He argued that because some people in the tourism industry did not like the results of the research and did not want the results publicized, this would be inconsistent with academic freedom. **SEN. ELLINGSON** professed support for the bill stating that the tourist industry would benefit from factual information.

SEN. ELLIOT wondered why the entity that pays for the study would have to use the information gleaned from the study. **SEN. ELLINGSON** surmised that universities operate differently because they are committed to the notion of academic freedom, regardless whether the knowledge helps or hurts someone.

SEN. ELLIOT charged that the money spent on the research was not university money. **SEN. ELLINGSON** agreed.

SEN. BUTCHER affirmed that **SEN. ELLINGSON** was 100% correct when referring to tax dollars. He argued that research paid by private dollars would not constitute academic research, but a private contractual arrangement. He rationalized that university sources of funding would suffer with this bill.

SEN. ELLIS reported that his voters had encouraged him to oppose this legislation.

SEN. WELLS recounted that the program has been in existence since 1987 and has been successful. Voters from his district had also shown strong opposition to SB 391.

Vote: **SEN. COBB'S** motion that **SB 391 DO PASS AS AMENDED** failed 6-8 with **Berry, Bohlinger, Cobb, Ellingson, Glaser, and Waterman** voting aye.

Motion/Vote: **SEN. ELLIS** moved that **SB 391 BE TABLED**. Motion carried 13-1 with **Ellingson** voting no.

EXECUTIVE ACTION ON SB 436

Motion: **SEN. ELLIS** moved that **SB 436 BE AMENDED (SB043601.ace)** **EXHIBIT** (eds39a09) .

Discussion:

SEN. ELLIS informed the committee that there would not be a fiscal impact on the general fund but would be a significant impact to local government.

{Tape : 3; Side : A; Approx. Time Counter : 0 - 32}

CHAIRMAN GLASER wondered if the amendment would address all the technical problems in the bill. **SEN. ELLIS** speculated that the amendment would address the technical issues but requested input from **Lance Melton** before SB 436 moved forward.

Vote: **SEN. ELLIS'S** motion that **SB 436 BE AMENDED (SB043601.ace)** carried unanimously.

Motion: **SEN. ELLIS** moved that **SB 436 DO PASS AS AMENDED**.

Discussion:

SEN. ELLIS asked **Lance Melton** if the bill would transfer funds from permissive accounts to non-permissive accounts. **Mr. Melton** asserted that the bill would need an amendment to address this. **Mr. Melton** affirmed his support of such an amendment.

SEN. ELLIS moved, in concept, an amendment that would allow transfer of permissive funds into non-permissive accounts within the body of the bill.

Vote: SEN. ELLIS'S motion to "ADOPT AN AMENDMENT TO ALLOW TRANSFER OF PERMISSIVE FUNDS INTO NON-PERMISSIVE ACCOUNTS WITHIN THE BODY OF THE BILL", carried unanimously.

SEN. ELLIS called attention to the fact that the bill could conflict with other statutes that would deny such moves.

Vote: SEN. ELLIS'S motion that **SB 436 DO PASS AS AMENDED** passed unanimously.

EXECUTIVE ACTION ON SB 457

Motion: SEN. RYAN moved that **SB 457 DO PASS**.

Discussion:

SEN. RYAN clarified that conservative bond lawyers may request a specific statute in order to use impact aid funds for bonding purposes. SB 457 would provide such a comfort zone for those lawyers.

SEN. COBB referred to page 1, line 16 which says, "may use a portion of" and wondered if a percentage should be listed instead of "a portion of".

Vote: SEN. RYAN'S motion that **SB 457 DO PASS** passed unanimously.

EXECUTIVE ACTION ON SB 273

* SB 273 was amended (SB027301.aem) **EXHIBIT**(eds39a10), in committee on February 5, 2001 and was held awaiting a revised fiscal note.

Motion/Vote: SEN. BERRY moved that **SB 273 DO PASS AS AMENDED**. Motion carried 8-5 with Butcher, Cobb, Ellingson, Elliott, and Ellis voting no.

EXECUTIVE ACTION ON SB 344

Motion/Vote: SEN. COBB moved that **SB 344 BE AMENDED** (SB034401.aem) **EXHIBIT**(eds39a11). Motion carried unanimously.

Motion/Vote: SEN. COBB moved that **SB 344 BE AMENDED** (SB034403.aem) **EXHIBIT**(eds39a12). Motion passed unanimously.

Motion/Vote: SEN. COBB moved that SB 344 DO PASS AS AMENDED.
Motion carried 11-3 with Butcher, Waterman, and Wells voting no.

EXECUTIVE ACTION ON SB 117

Motion: SEN. COBB moved that SB 117 BE AMENDED (SB011701.aem)
EXHIBIT (eds39a13) .

Discussion:

CHAIRMAN GLASER explained that SB 117 exempts transportation, bus depreciation and adult education levies from the mill cap.
Madalyn Quinlan explained the amendments.

Vote: SEN. COBB'S motion that SB 117 BE AMENDED (SB011701.aem)
passed unanimously.

Motion/Vote: SEN. COBB moved that SB 117 BE AMENDED,
EXHIBIT (eds39a14) . Motion carried unanimously.

CHAIRMAN GLASER stated that the adult education levy was already capped at one mill.

SEN. ELLIS recounted that he worked with **CHAIRMAN GLASER** on SB 184 in the taxation committee. He debated whether they had intended on capping the other two accounts. He felt the committee should decide on whether to request permission to increase taxing responsibility. **CHAIRMAN GLASER** reminded **SEN. ELLIS** that this was done in the conference committee.

SEN. RYAN felt it made sense to remove the cap on the transportation fund because school districts were required to transport students to school and back home again. He maintained that allowing people to defeat levies would put the districts in violation of state law. **CHAIRMAN GLASER** clarified that transportation money did not include activity transportation. The bus depreciation money was permissive and it would include activity money.

SEN. ELLIS responded that the committee had passed a bill that would increase the parental entitlement when a student lives a certain distance from the school. He stated that this would be contradictory to allowing these funds to be non-permissive. He defended his support of the bill.

Motion/Vote: SEN. COBB moved that SB 117 DO PASS AS AMENDED.
Motion carried unanimously.

EXECUTIVE ACTION ON SB 430**Discussion:**

CHAIRMAN GLASER reported that if the committee had concerns with the fiscal impact of the bill he would suggest tying it to LC896. **SEN. ELLIS** compared testing situations between the Bozeman and Missoula School Districts. He referred to the fiscal note and stated his belief that the committee should fund a criteria based test at the 3rd grade level. **SEN. ELLIS** reasoned that the Office of Public Instruction would not need a reading specialist at the cost of \$48,416. He reminded the committee that the schools could grade and evaluate the tests themselves. He also maintained that the Office of Public Instruction would not need to contract with another source to determine the reading level of Montana students. He submitted that teachers could perform that duty with a small hand calculator.

Motion: **SEN. ELLIS** moved that **SB 430 DO PASS.**

Discussion:

SEN. BERRY wondered if students were currently being tested in all the disciplines. **SEN. ELLIS** stated that current tests are norm referenced based which compare students with all the other students in the country that have taken that same test. He reasoned that those tests do not inform the teachers of the grade level of individual students.

{Tape : 3; Side : B; Approx. Time Counter : 0 - 32}

SEN. RYAN debated that the bill would require teachers to add more to their teaching day and teachers would need additional training to administer a new test. He felt SB 430 would have significant local government impact because districts would be under a state mandate. **SEN. RYAN** charged that the merits of this issue should be brought to the attention of the Board of Education.

SEN. WELLS stated that he liked the concept at the beginning but was bothered by **SEN. RYAN'S** comments. He reasoned that teachers are paid to teach children to read in the primary grades. He did not see how teaching children to read and testing them on their reading level would add an extra effort to a teacher's schedule.

SEN. RYAN argued that giving a child one test a year would not teach a child to read. **SEN. WELLS** debated that the program would

have more merit than one test. The point of the bill would establish whether a child could read at grade level.

CHAIRMAN GLASER rationalized that SB 430 was not about testing. The purpose of the test would provide feedback to the schools which would allow them to determine the reading progress of a child.

SEN. RYAN questioned **CHAIRMAN GLASER** on the magic of LC 896 and whether it would save programs and teachers in the wake of the legislative session. He stated his support of a SB 430 if it would guarantee that the funds would be available to the schools.

CHAIRMAN GLASER explained that he would want a contingency avoidance clause so if LC897 doesn't pass SB 430 would be void. He also stated that a contingency avoidance clause would be against

SEN. ELLIS' wishes.

SEN. ELLIS maintained that the passage of SB 430 would not require an increase in teachers. He reiterated that the main goal in grades K-3 would be to teach children to read. He narrated that the bill stands on its own and it would be good policy.

Motion/Vote: **SEN. GLASER** moved that **SB 430 BE AMENDED "TO ADOPT A CONTINGENT VOIDANCE CLAUSE"**. Motion failed 3-10 with Elliott, Glaser, and Ryan voting aye.

Motion/Vote: **SEN. ELLIS** moved that **SB 430 DO PASS**. Motion carried 10-4 with Berry, Ellingson, Elliott, and Ryan voting no.

{Tape : 4; Side : A; Approx. Time Counter : 0 - 10}

EXHIBIT(eds39a15)

EXHIBIT(eds39a16)

EXHIBIT(eds39a17)

ADJOURNMENT

Adjournment: 7:00 P.M.

SEN. BILL GLASER, Chairman

LINDA ASHWORTH, Secretary

BG/LA

EXHIBIT (eds39aad)